

AMENDED IN ASSEMBLY APRIL 29, 2003

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 870

**Introduced by Assembly Member Strickland
(Coauthor: Assembly Member Levine)**

February 20, 2003

An act to amend Section 19604 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 870, as amended, Strickland. Horse racing: advance deposit wagering.

Existing law provides that an advance deposit wager is a method of making a parimutuel wager in which a person in California or elsewhere establishes an account with a licensee, betting system, or multijurisdictional wagering hub, and subsequently issues wagering instructions concerning the funds in this account, thereby authorizing the entity holding the account to place wagers on the account owner's behalf. Existing law authorizes any racing association or fair to accept advance deposit wagers, or to allow these wagers through a betting system or multijurisdictional wagering hub, during the calendar period of its live racing meeting upon approval by the California Horse Racing Board, and to form partnerships, joint ventures, or any other affiliation to further this purpose. ~~Existing law requires the board to develop and adopt rules to license and regulate all phases of operation of advance~~

~~deposit wagering for licensees, betting systems, and multijurisdictional wagering hubs located in California.~~

~~This bill would require the board to encourage, to the extent practical and feasible, the creation and retention of jobs for persons residing in this state when developing rules and regulations for the operation of advance deposit wagering. Under existing law, when the board approves a licensee, a betting system, or a multijurisdictional wagering hub, whether located within California or outside of this state, to accept advance deposit wagering instructions on any race or races from California residents, the licensee, betting system, or multijurisdictional wagering hub may be compensated pursuant to a contractual agreement with a California licensee, in an amount not to exceed 6.5% of the amount handled on a race or races conducted in California, and in the case of a race or races conducted in another jurisdiction, may be compensated in an amount not to exceed 6.5%, plus a fee to be paid to the host racing association not to exceed 3.5%, of the amount handled on that race or races.~~

~~This bill would specify the compensation for a licensee, betting system, or multijurisdictional wagering hub, with a specified labor agreement, that accepts advance deposit wagers at a live operator telephone call center located in this state, without reference to the residency of the wagering party. It would set this maximum at a net of 6.5%, plus a fee to be paid to the host racing association not to exceed 3.5%, of the amount handled on a race or races conducted in another jurisdiction, and it would provide for contractual compensation for a race or races conducted in California, in an amount not less than an undetermined minimum percentage of the amount handled.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19604 of the Business and Professions
- 2 Code is amended to read:
- 3 19604. Notwithstanding any other provision of law, in
- 4 addition to parimutuel wagering otherwise authorized by this
- 5 chapter, advance deposit wagering may be conducted upon
- 6 approval of the board. The board may authorize any racing
- 7 association or fair, during the calendar period it is licensed by the
- 8 board to conduct a live racing meeting in accordance with the



provisions of Article 4 (commencing with Section 19480), to accept advance deposit wagers or to allow these wagers through a betting system or a multijurisdictional wagering hub in accordance with the following:

(a) Racing associations and racing fairs may form a partnership, joint venture, or any other affiliation in order to further the purposes of this section.

(b) As used in this section, “advance deposit wagering” means a form of parimutuel wagering in which a person residing within California or outside of this state establishes an account with a licensee, a board-approved betting system, or a board-approved multijurisdictional wagering hub located within California or outside of this state, and subsequently issues wagering instructions concerning the funds in this account, thereby authorizing the entity holding the account to place wagers on the account owner’s behalf.

~~An~~

(c) ~~An~~ advance deposit wager may be made only by the entity holding the account pursuant to wagering instructions issued by the owner of the funds communicated by telephone call or through other electronic media. The licensee, a betting system, or a multijurisdictional wagering hub shall ensure the identification of the account’s owner by utilizing methods and technologies approved by the board. ~~Further, at~~

(d) ~~At~~ the request of the board, any licensee, betting system, or multijurisdictional wagering hub located in California, and any betting system or multijurisdictional wagering hub located outside of this state that accepts wagering instructions concerning races conducted in California or accepts wagering instructions from California residents, shall provide a full accounting and verification of the source of the wagers thereby made, including the zone and breed, in the form of a daily download of parimutuel data to a database designated by the board. ~~Additionally~~

(e) *Except as provided in subdivision (f)*, when the board approves a licensee, a betting system, or a multijurisdictional wagering hub, whether located within California or outside of this state, to accept advance deposit wagering instructions on any race or races from California residents, the licensee, betting system, or multijurisdictional wagering hub may be compensated pursuant to a contractual agreement with a California licensee, in an amount not to exceed 6.5 percent of the amount handled on a race or races

1 conducted in California, and in the case of a race or races
2 conducted in another jurisdiction, may be compensated in an
3 amount not to exceed 6.5 percent, plus a fee to be paid to the host
4 racing association not to exceed 3.5 percent, of the amount handled
5 on that race or races. ~~The~~

6 *(f) If the licensee, betting system, or multijurisdictional*
7 *wagering hub accepts advance deposit wagers at a live operator*
8 *telephone call center located in this state, and has executed a*
9 *contractual agreement with a bona fide labor organization that*
10 *has historically represented the same or similar classifications of*
11 *employees at the nearest horse racing meeting, the licensee,*
12 *betting system, or multijurisdictional wagering hub shall be*
13 *compensated as follows:*

14 *(1) For a race or races conducted in California, it shall receive*
15 *compensation pursuant to a contractual agreement with a*
16 *California licensee in an amount of not less than ____ percent of*
17 *the amount handled.*

18 *(2) For a race or races conducted outside of California, it shall*
19 *receive net compensation of 6.5 percent of the amount handled plus*
20 *a fee to be paid to the host racing association not to exceed 3.5*
21 *percent of the amount handled.*

22 *(g) The amount remaining after the payment of winning wagers*
23 *and after payment of the contractual compensation and host fee,*
24 *if any, shall be distributed as a market access fee in accordance*
25 *with subdivision ~~(g)~~ (l). As used in this section, “market access*
26 *fee” means the contractual fee paid by a betting system or*
27 *multijurisdictional wagering hub to the California licensee for*
28 *access to the California market for wagering purposes. As used in*
29 *this section, “licensee” means any racing association or fair, or*
30 *affiliation thereof authorized in subdivision (a).*

31 ~~(e)~~

32 *(h) (1) The board shall develop and adopt rules to license and*
33 *regulate all phases of operation of advance deposit wagering for*
34 *licensees, betting systems, and multijurisdictional wagering hubs*
35 *located in California. Betting systems and multijurisdictional*
36 *wagering hubs located and operating in California shall be*
37 *approved by the board prior to establishing advance deposit*
38 *wagering accounts or accepting wagering instructions concerning*
39 *those accounts and shall enter into a written contractual agreement*
40 *with the bona fide labor organization that has historically*

1 represented the same or similar classifications of employees at the
2 nearest horse racing meeting. Permanent state or county
3 employees and nonprofit organizations that have historically
4 performed certain services at county, state, or district fairs may
5 continue to provide those services, notwithstanding this
6 requirement. ~~In developing rules and regulations for the operation~~
7 ~~of advance deposit wagering, the board shall encourage, to the~~
8 ~~extent practical and feasible, the creation and retention of jobs for~~
9 ~~persons residing in this state.~~

10 (2) The board shall develop and adopt rules and regulations
11 requiring betting systems and multijurisdictional wagering hubs to
12 establish security access policies and safeguards, including, but
13 not limited to, the following:

14 (A) The betting system or wagering hub shall utilize the
15 services of a board-approved independent third party to perform
16 identity, residence, and age verification services with respect to
17 persons establishing an advance deposit wagering account.

18 (B) The betting system or wagering hub shall utilize personal
19 identification numbers (PINs) and other technologies to assure
20 that only the accountholder has access to the advance deposit
21 wagering account.

22 (C) The betting system or wagering hub shall provide for
23 withdrawals from the wagering account only by means of a check
24 made payable to the accountholder and sent to the address of the
25 accountholder or by means of an electronic transfer to an account
26 held by the verified accountholder or the accountholder may
27 withdraw funds from the wagering account at a facility approved
28 by the board by presenting verifiable personal and account
29 identification information.

30 (D) The betting system or wagering hub shall allow the board
31 access to its premises to visit, investigate, and place expert
32 accountants and other persons it deems necessary for the purpose
33 of ensuring that its rules and regulations concerning credit
34 authorization, account access, and other security provisions are
35 strictly complied with.

36 (3) The board shall prohibit advance deposit wagering
37 advertising that it determines to be deceptive to the public. The
38 board shall also require, by regulation, that every form of
39 advertising contain a statement that minors are not allowed to open
40 or have access to advance deposit wagering accounts.

~~(d)~~

(i) As used in this section, a “multijurisdictional wagering hub” is a business conducted in more than one jurisdiction that facilitates parimutuel wagering on races it simulcasts and other races it offers in its wagering menu.

~~(e)~~

(j) As used in this section, a “betting system” is a business conducted exclusively in this state that facilitates parimutuel wagering on races it simulcasts and other races it offers in its wagering menu.

~~(f)~~

(k) In order for a licensee, betting system, or multijurisdictional wagering hub to be approved by the board to conduct advance deposit wagering, it shall meet both of the following requirements:

(1) All wagers thereby made shall be included in the appropriate parimutuel pool of the host racing association or fair under a contractual agreement with the applicable California licensee, in accordance with the provisions of this chapter.

(2) The amounts deducted from advance deposit wagers shall be in accordance with the provisions of this chapter.

~~(g)~~

(l) The amount received as a market access fee from advance deposit wagers, which shall not be considered for purposes of Section 19616.51, shall be distributed as follows:

(1) An amount equal to 0.0011 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting shall be distributed to the Center for Equine Health to establish the Kenneth L. Maddy Fund for the benefit of the School of Veterinary Medicine at the University of California at Davis.

(2) An amount equal to 0.0003 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting shall be distributed to the Department of Industrial Relations to cover costs associated with audits conducted pursuant to Section 19526 and for the purposes of reimbursing the State Mediation and Conciliation Service for costs incurred pursuant to this bill. However, if that amount would exceed the costs of the Department of Industrial Relations, the amount distributed to the department shall be reduced, and that reduction shall be forwarded to an organization designated by the

1 racing association or fair described in subdivision (a) for the
2 purpose of augmenting a compulsive gambling prevention
3 program specifically addressing that problem.

4 (3) An amount equal to 0.00165 multiplied by the amount
5 handled on advance deposit wagers that originate in California for
6 each racing meeting shall be distributed as follows:

7 (A) One-half of the amount shall be distributed to supplement
8 the trainer-administered pension plans for backstretch personnel
9 established pursuant to Section 19613. Moneys distributed
10 pursuant to this subparagraph shall supplement, and not supplant,
11 moneys distributed to that fund pursuant to Section 19613 or any
12 other provision of law.

13 (B) One-half of the amount shall be distributed to the welfare
14 fund established for the benefit of horsemen and backstretch
15 personnel pursuant to subdivision (b) of Section 19641. Moneys
16 distributed pursuant to this subparagraph shall supplement, and
17 not supplant, moneys distributed to that fund pursuant to Section
18 19641 or any other provision of law.

19 (4) With respect to wagers on each breed of racing that
20 originate in California, an amount equal to 2 percent of the first
21 two hundred fifty million dollars (\$250,000,000) of handle from
22 all advance deposit wagers originating from within California
23 annually, an amount equal to 1.5 percent of the next two hundred
24 fifty million dollars (\$250,000,000) of handle from all advance
25 deposit wagers originating from within California annually, and an
26 amount equal to 1 percent of handle from all advance deposit
27 wagers originating from within California in excess of five
28 hundred million dollars (\$500,000,000) annually, shall be
29 distributed as satellite wagering commissions. The satellite
30 wagering facility commissions calculated in accordance with this
31 subdivision shall be distributed to each satellite wagering facility
32 and racing association or fair in the zone in which the wager
33 originated in the same relative proportions that the satellite
34 wagering facility or the racing association or fair generated
35 satellite commissions during the previous calendar year. For
36 purposes of this section, the purse funds distributed pursuant to
37 Section 19605.72 shall be considered to be satellite wagering
38 facility commissions attributable to thoroughbred races at the
39 locations described in that section.

1 (5) With respect to wagers on each breed of racing that
2 originate in California for each racing meeting, after the payment
3 of contractual obligations to the licensee, the betting system, or the
4 multijurisdictional wagering hub, and the distribution of the
5 amounts set forth in paragraphs (1) through (4), inclusive, the
6 amount remaining shall be distributed to the racing association or
7 fair that is conducting live racing on that breed during the calendar
8 period in the zone in which the wager originated, and this amount
9 shall be allocated to that racing association or fair as commissions,
10 to horsemen participating in that racing meeting in the form of
11 purses, and as incentive awards, in the same relative proportion as
12 they were generated or earned during the prior calendar year at that
13 racing association or fair on races conducted or imported by that
14 racing association or fair after making all deductions required by
15 applicable law. Purse funds generated pursuant to this section may
16 be utilized to pay 50 percent of the total costs and fees incurred due
17 to the implementation of advance deposit wagering. “Incentive
18 awards” shall be those payments provided for in Sections 19617.2,
19 19617.7, 19617.8, 19617.9, and 19619. The amount determined to
20 be payable for incentive awards shall be payable to the applicable
21 official registering agency and thereafter distributed as provided
22 in this chapter. If the provisions of Section 19601.2 apply, then the
23 amount distributed to the applicable racing associations or fairs
24 from advance deposit wagering shall first be divided between
25 those racing associations or fairs in direct proportion to the total
26 amount wagered in the applicable zone on the live races conducted
27 by the respective association or fair. Notwithstanding this
28 requirement, when the provisions of subdivision (b) of Section
29 19607.5 apply to the 2nd District Agricultural Association in
30 Stockton or the California Exposition and State Fair in
31 Sacramento, then the total amount distributed to the applicable
32 racing associations or fairs shall first be divided equally, with 50
33 percent distributed to applicable fairs and 50 percent distributed to
34 applicable associations. For purposes of this subdivision, the zones
35 of the state shall be as defined in Section 19530.5, except as
36 modified by the provisions of subdivision (f) of Section 19601,
37 and the combined central and southern zones shall be considered
38 one zone.

39 Notwithstanding any provision of this section to the contrary,
40 the distribution of the market access fee, other than the



distributions specified in paragraph (1) or (2), may be altered upon the approval of the board, in accordance with an agreement signed by all parties receiving a distribution under paragraphs (4) and (5).

~~(h)~~

(m) Notwithstanding any provisions of this section to the contrary, all funds derived from advance deposit wagering that originate from California for each racing meeting on out-of-state and out-of-country thoroughbred races conducted after 6 p.m., Pacific time, shall be distributed in accordance with this subdivision. With respect to these wagers, 50 percent of the amount remaining after the payment of contractual obligations to the multijurisdictional wagering hub, betting system, or licensee and the amounts set forth in paragraphs (1) through (5), inclusive, of subdivision ~~(g)~~ (l) shall be distributed as commissions to thoroughbred associations and racing fairs, as thoroughbred and fair purses, and as incentive awards in accordance with subdivision ~~(g)~~ (l), and the remaining 50 percent, together with all funds derived for each racing meeting from advance deposit wagering originating from California out-of-state and out-of-country harness and quarter horse races conducted after 6 p.m., Pacific time, shall be distributed as commissions on a pro rata basis to the applicable licensed quarter horse association and the applicable licensed harness association, based upon the amount handled instate, both on- and off-track, on each breed's own live races in the previous year by that association, or its predecessor association. One-half of the amount thereby received by each association shall be retained by that association as a commission, and the other half of the money received shall be distributed as purses to the horsemen participating in its current or next scheduled licensed racing meeting.

~~(i)~~

(n) Notwithstanding any provisions of this section to the contrary, all funds derived from advance deposit wagering which originate from California for each racing meeting on out-of-state and out-of-country nonthoroughbred races conducted before 6 p.m., Pacific time, shall be distributed in accordance with this subdivision. With respect to these wagers, 50 percent of the amount remaining after the payment of contractual obligations to the multijurisdictional wagering hub, betting system, or licensee and the amounts set forth in paragraphs (1) through (5), inclusive,

1 of subdivision ~~(g)~~ (l) shall be distributed as commissions as
2 provided in subdivision ~~(h)~~ (m) for licensed quarter horse and
3 harness associations, and the remaining 50 percent shall be
4 distributed as commissions to the applicable thoroughbred
5 associations or fairs, as thoroughbred and fair purses, and as
6 incentive awards in accordance with subdivision ~~(g)~~ (l).

7 ~~(j)~~

8 (o) A racing association, a fair, or a satellite wagering facility
9 may accept and facilitate the placement of any wager from a patron
10 at its facility that a California resident could make through a
11 betting system or multijurisdictional wagering hub duly offering
12 advance deposit wagering in this state, and the facility accepting
13 the wager shall receive a 2-percent commission on that wager in
14 lieu of any distribution for satellite commissions pursuant to
15 subdivision ~~(g)~~ (l).

16 ~~(k)~~

17 (p) Any disputes concerning the interpretation or application of
18 this section shall be resolved by the board.

19 This section shall remain in effect only until January 1, 2008,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2008, deletes or extends that date.

